

By: Nelson, et al.

S.B. No. 530

A BILL TO BE ENTITLED

AN ACT

1
2 relating to physical activity requirements and physical fitness
3 assessment for certain public school students.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 28.002(1) and (1-1), Education Code,
6 are amended to read as follows:

7 (1) A school district shall [~~The State Board of Education,~~
8 ~~after consulting with educators, parents, and medical~~
9 ~~professionals, by rule may~~] require a student enrolled in
10 kindergarten or a grade level below grade nine to participate in
11 moderate or vigorous daily physical activity for at least 30
12 minutes as part of a school district's physical education
13 curriculum [~~or through structured activity during a school campus's~~
14 ~~daily recess, except that the board may not require more than 30~~
15 ~~minutes of daily physical activity~~]. If a school district
16 determines, for any particular grade level, that requiring moderate
17 or vigorous daily physical activity is impractical due to
18 scheduling concerns or other factors, the district may as an
19 alternative require a student in that grade level to participate in
20 moderate or vigorous physical activity for at least 135 minutes
21 during each school week [~~the board adopts rules under this~~
22 ~~subsection, the board must ensure by rule that students enrolled in~~
23 ~~middle and junior high school settings are allowed to meet the~~
24 ~~physical activity requirement by participating in physical~~

1 ~~activity twice each week throughout the school year or the option to~~
2 ~~schedule at least two semesters overall].~~ A school district [~~If the~~
3 ~~board adopts rules under this subsection, the board~~] must provide
4 for an exemption for:

5 (1) any student who is unable to participate in the
6 required [~~daily~~] physical activity because of illness or
7 disability; and

8 (2) a middle school or junior high school student who
9 participates in an extracurricular activity with a moderate or
10 vigorous physical activity component that is considered a
11 structured activity under rules adopted by the commissioner [~~State~~
12 ~~Board of Education~~].

13 (1-1) In adopting rules relating to an activity described by
14 Subsection (1)(2), the commissioner [~~State Board of Education~~] may
15 permit an exemption for a student who participates in a
16 school-related activity or an activity sponsored by a private
17 league or club only if the student provides proof of participation
18 in the activity.

19 SECTION 2. Section 28.004(k), Education Code, is amended to
20 read as follows:

21 (k) A school district shall publish in the student handbook
22 and post on the district's Internet website, if the district has an
23 Internet website:

24 (1) a statement of the policies adopted to ensure that
25 elementary school, middle school, and junior high school students
26 engage in at least the amount and level [~~30 minutes per school day~~
27 ~~or 135 minutes per school week~~] of physical activity required by

1 Section 28.002(1); and

2 (2) a statement of:

3 (A) the number of times during the preceding year
4 the district's school health advisory council has met;

5 (B) whether the district has adopted and enforces
6 policies to ensure that district campuses comply with agency
7 vending machine and food service guidelines for restricting student
8 access to vending machines; and

9 (C) whether the district has adopted and enforces
10 policies and procedures that prescribe penalties for the use of
11 tobacco products by students and others on school campuses or at
12 school-sponsored or school-related activities.

13 SECTION 3. Chapter 38, Education Code, is amended by adding
14 Subchapter C to read as follows:

15 SUBCHAPTER C. PHYSICAL FITNESS ASSESSMENT

16 Sec. 38.101. ASSESSMENT REQUIRED. (a) Except as provided
17 by Subsection (b), a school district shall assess the physical
18 fitness of students enrolled in kindergarten through grade 12. The
19 assessment must be conducted twice during each school year, with
20 one assessment conducted during the fall semester and one
21 assessment conducted during the spring semester.

22 (b) A school district is not required to assess a student
23 for whom, as a result of disability or other condition identified by
24 commissioner rule, the assessment instrument adopted under Section
25 38.102 is inappropriate.

26 Sec. 38.102. ADOPTION OF ASSESSMENT INSTRUMENT. (a) The
27 commissioner by rule shall adopt an assessment instrument to be

1 used by a school district in assessing student physical fitness
2 under this subchapter.

3 (b) The assessment instrument must:

4 (1) be based on factors related to student health,
5 including the following factors that have been identified as
6 essential to overall health and function:

7 (A) aerobic capacity;

8 (B) body composition; and

9 (C) muscular strength, endurance, and
10 flexibility; and

11 (2) include criterion-referenced standards specific
12 to a student's age and gender and based on the physical fitness
13 level required for good health.

14 Sec. 38.103. REPORTING OF SUMMARY RESULTS. (a) A school
15 district shall compile the results of the physical fitness
16 assessment required by this subchapter and provide summary results,
17 aggregated by grade level and any other appropriate category
18 identified by commissioner rule, to the agency. The summary
19 results may not contain the names of individual students or
20 teachers.

21 (b) The results of individual student performance on the
22 physical fitness assessment instrument are confidential and may be
23 released only in accordance with state and federal law.

24 Sec. 38.104. ANALYSIS OF RESULTS. (a) The agency shall
25 analyze the results received by the agency under this subchapter
26 and identify, for each school district, any correlation between the
27 results and the following:

- 1 (1) student academic achievement levels;
- 2 (2) student attendance levels;
- 3 (3) student obesity;
- 4 (4) student disciplinary problems; and
- 5 (5) school meal programs.

6 (b) The agency may contract with a public or private entity
7 for that entity to conduct all or part of the analysis required by
8 Subsection (a).

9 (c) Not later than September 1 of each year, the agency
10 shall report the findings of the analysis under this section of the
11 results obtained during the preceding school year to the School
12 Health Advisory Committee established under Section 1001.0711,
13 Health and Safety Code, for use by the committee in:

14 (1) assessing the effectiveness of coordinated health
15 programs provided by school districts in accordance with Section
16 38.014; and

17 (2) developing recommendations for modifications to
18 coordinated health program requirements or related curriculum.

19 Sec. 38.105. DONATIONS. The agency and each school
20 district may accept donations made to facilitate implementation of
21 this subchapter.

22 Sec. 38.106. RULES. The commissioner shall adopt rules
23 necessary to implement this subchapter.

24 SECTION 4. The commissioner of education shall adopt the
25 physical fitness assessment instrument required under Subchapter
26 C, Chapter 38, Education Code, as added by this Act, and rules
27 necessary to implement that subchapter not later than the date that

1 enables the instrument to be used by school districts during the
2 2007-2008 school year.

3 SECTION 5. This Act applies beginning with the 2007-2008
4 school year.

5 SECTION 6. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2007.